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Attorneys for Apple Inc.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CORONAVIRUS REPORTER, CALID INC.,
on behalf of themselves and all others similarly
situated

Plaintiffs,

APPLE INC., FEDERAL TRADE
COMMISSION,

Defendants.

Case No. 3:21-CV-05567-EMC

**DEFENDANT APPLE INC.'S NOTICE OF
PENDENCY OF OTHER ACTION OR
PROCEEDING**

1 Pursuant to Civil Local Rule 3-13, Defendant Apple Inc. (“Apple”) hereby notifies the Court
 2 of the pendency of *Primary Productions LLC v. Apple Inc.*, No. 2:21-cv-00137-JDL (D. Me. May 17,
 3 2021). *Primary Productions* is related to the above-captioned action. The District of Maine has
 4 ordered *Primary Productions* transferred to the Northern District of California, noting that *Primary*
 5 *Productions* is “similar” to an earlier iteration of this action. A true and correct copy of the Order on
 6 Motion to Transfer Venue is attached hereto as Exhibit A.

7 *Primary Productions* meets the criteria listed in Rule 3-13(a) because it “involves all or a
 8 material part of the same subject matter and all or substantially all of the same parties.” Specifically,
 9 *Coronavirus Reporter* and *Primary Productions* (all plaintiffs represented by the same counsel) each
 10 bring nine identical counts against Apple: Sherman Act Section 2 claims for monopolization and
 11 attempted monopolization (Counts I, II, and IV); an essential facility claim (Count III); a Section 1
 12 unreasonable-restraint claim (Count V); a tying claim (Count VI); two contract claims (Counts VII and
 13 VIII); and a Racketeering Influenced Corrupt Organization Act claim (Count IX). The three classes
 14 proposed by each action—and thus the parties to be involved in the case—are likewise essentially
 15 identical. Moreover, the latest complaint in *Primary Productions* includes allegations about plaintiffs
 16 in *Coronavirus Reporter*, see, e.g., Am. Compl. ¶ 260, ECF No. 21, *Primary Productions*. Filings
 17 made by the *Coronavirus Reporter* plaintiffs have similarly referred to a “related case in Maine,” which
 18 is *Primary Productions*. Mot. for Prelim. Inj. ¶¶ 53, 64, ECF No. 20, *Coronavirus Reporter*. For the
 19 Court’s convenience, Apple has attached hereto as Exhibit B a true and correct copy of a redlined
 20 version of the Amended Complaint in *Primary Productions* compared to the Complaint in *Coronavirus*
 21 *Reporter*.

22 Given the overlap in subject matter, claims, putative classes, likely witnesses, counsel, and case
 23 posture, Apple believes that there will be significant coordination and efficiency benefits to
 24 consolidating these two cases. Apple therefore requests that they be consolidated and assigned to Judge
 25 Edward M. Chen. At a minimum, they should be related.*

26

27 * If the Court does not wish to consolidate the cases, Apple intends to file a motion to extend time to
 28 file a response in *Primary Productions* as soon as that case receives a Northern District of California
 docket number. Apple’s response is currently due August 16, 2021, and the transferor court did
 not vacate that deadline. Apple’s motion would seek to align the response deadlines in *Coronavirus*

1 Dated: August 16, 2021

Respectfully submitted,

2 By: /s/ Rachel S. Brass
3 Rachel S. Brass

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9 *Attorneys for Apple Inc.*

27
28 *Reporter and Primary Productions*, such that Apple's response to both complaints would be due
on August 23, 2021. Apple also intends, at the same time, to file an administrative motion to relate
the two cases under Local Rule 3-12(b).